

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-091232

05/03/2013

HONORABLE BETHANY G. HICKS

CLERK OF THE COURT  
J. Johnson/I. Ostrander  
Deputy

IN RE THE MARRIAGE OF  
CONCEPCION AJAGBE

BRIAN A FOUTZ

AND

SYLVESTER AJAGBE

DONNA M HOUGEN

ALTERNATIVE DISPUTE  
RESOLUTION - CCC

TEMPORARY ORDERS HEARING

Courtroom 301 – SEA

Prior to the commencement of this proceeding Respondent's exhibits 1 through 10 are marked for identification.

2:32 p.m. This is the time set for a Temporary Orders hearing on Mother's *Motion for Hearing to Establish Temporary Orders* filed on February 12, 2013 and Respondent's Response thereto filed on February 25, 2013. Petitioner/Mother Concepcion Ajagbe is present and represented by counsel, Brian Foutz. Respondent/Father Sylvester Ajagbe is present and represented by counsel, Donna M. Hougen.

A record of the proceedings is made by CD/videotape in lieu of a court reporter.

**LET THE RECORD REFLECT** prior to the commencement of this proceeding Concepcion Ajagbe and Sylvester Ajagbe are sworn.

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Counsel for the Petitioner/Mother presents avowals to the Court.

**LET THE RECORD REFLECT** Counsel for Mother presents to the Court a copy of Mother's *Affidavit of Financial Information* filed this date.

Counsel for the Respondent/Father presents avowals to the Court.

Respondent's exhibits 1 through 4 are received into evidence.

Father, Sylvester Ajagbe, having previously been sworn, now testifies.

Courts exhibit 11 is marked for identification and received into evidence.

**IT IS ORDERED** taking this matter under advisement.

There being no further need to retain the exhibits currently in the custody of the division clerk,

**IT IS ORDERED** that the clerk permanently release those exhibits not offered or received in evidence to the counsel/party causing them to be marked or to a written designee.

**IT IS FURTHER ORDERED** that counsel/party or written designee take immediate possession of all exhibits referenced above.

**IT IS FURTHER ORDERED** affirming the settlement conference set for **October 1, 2013 at 9:30 a.m.** before Judge *Pro Tempore* David Horowitz. Counsel and/or the parties should not contact ADR directly. Counsel and/or the parties will receive a notice from ADR setting forth the necessary settlement conference information. **Counsel and/or the parties should notify ADR at (602) 506-7884 if an agreement is reached prior to the scheduled settlement conference.**

**IT IS FURTHER ORDERED** setting this cause for **Trial to the Court on December 6, 2013 at 1:30 p.m (time allotted: 3 hours)** before:

The Honorable Bethany G. Hicks  
Southeast Judicial District  
Courtroom 301  
222 East Javelina Avenue  
Mesa, Arizona 85210

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**LET THE RECORD REFLECT** that motions to continue trial filed more than 30 days before trial will not be granted absent a showing of good cause. Motions to continue trial filed fewer than 30 days before trial will not be granted absent a showing of extraordinary circumstances.

**IT IS FURTHER ORDERED** all discovery shall be completed by **November 6, 2013**.

A **Joint Pre-Trial Statement** shall be filed pursuant to Rule 6.8(b), Local Rules of Maricopa County (Domestic Relations Proceedings) no later than **November 29, 2013**. If a Joint Pre-Trial Statement is impossible, then this Court will accept separate Pre-Trial Statements. If the parties want to make an opening statement, it may be included in the Pre-Trial Statement. In addition, each party shall attach to the Pre-Trial Statement:

1. An updated affidavit of the current financial circumstances pursuant to Rule 6.7, Local Rules of Maricopa County.
2. A current and detailed inventory and appraisal of the property and assets of the parties.
3. A proposal of how the property and assets should be divided and the proposed disposition of each issue before the Court.
4. A Child Support Worksheet completed pursuant to the Statewide Child Support Guidelines. If a jointly prepared worksheet is not filed, each party shall file a completed Child Support Worksheet.

Objections and pre-trial motions not filed by **November 22, 2013** will be deemed waived. Postponements will be granted only in accordance with appropriate rules.

Failure of counsel or of any party to present the Joint Pre-Trial Statement in proper form, including each and every attachment required shall, in the absence of good cause shown, result in the imposition of any or all available sanctions pursuant to Local Rule 6.2(e).

If this matter is settled and will proceed in the manner of a default, you may contact this division for an expedited hearing date.

Counsel is advised that if the presentation of evidence does not allow for closing arguments, the Court will direct the parties to submit written closing arguments. If time allows for closing arguments, the Court may hear closing arguments at that time.

**IT IS FURTHER ORDERED** that the parties and counsel, if represented, shall provide to the clerk of this division **any exhibits they seek to admit into evidence**. **All exhibits must**

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**be clearly identified, must be separated by a COLORED sheet of paper, and must be hand-delivered to the clerk of this division no later than 11:00 a.m. on November 29, 2013. All exhibits shall be hand-delivered directly to court staff at this division's suite.** No trial exhibits shall be presented for marking that have not been previously exchanged. No duplicate exhibits shall be presented for marking. **Failure to obey these orders may result in exclusion of the exhibit and/or waiver of objections.**

**IT IS FURTHER ORDERED** that in the event the parties have a natural or an adopted minor, unemancipated child in common, both parties shall have completed an approved Parent Education Program in accordance with A.R.S. § 25-831 et seq. prior to trial and shall file proof thereof prior to or at the time of trial. **IF NEITHER PARTY HAS COMPLETED THE PARENT EDUCATION PROGRAM PRIOR TO TRIAL, THE COURT MAY VACATE TRIAL AND REQUIRE COMPLIANCE PRIOR TO PROCEEDING.** If only one party has completed the Parent Education Program, the Court may permit that party to proceed by default.

**IF EITHER PARTY FAILS TO APPEAR FOR TRIAL, TRIAL MAY NEVERTHELESS PROCEED, AND RELIEF MAY BE ENTERED IN FAVOR OF THE PARTY WHO HAS APPEARED.**

**IF BOTH PARTIES FAIL TO APPEAR, TRIAL MAY BE VACATED AND/OR THE ACTION MAY BE DISMISSED.**

**NOTE:** All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division **five (5) court business days** before the scheduled hearing.

**NOTICE:** A child should not be brought to the courthouse to be present during a court proceeding except in the circumstance that the child is to be interviewed by the judge in chambers or unless the child's presence is otherwise required for the court proceeding. Whenever a child is brought to the courthouse, it is the responsibility of the party who brings the child to arrange for appropriate care and supervision of the child outside of the courtroom and judicial offices. The duties of court personnel do not permit them to perform this function.

**In the event the parties have any difficulties interpreting, enforcing, or otherwise complying with provisions of this order, they shall first seek mediation through a qualified mediator of their mutual selection to attempt to reach agreement prior to seeking Court intervention.**

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**LET THE RECORD REFLECT** that this Court cannot guarantee the quality of the reception and whether a person can hear or be heard during a telephonic appearance, if requested and granted. If there is difficulty with the telephonic appearance, the above-set trial will NOT be reset. Please ensure that any telephonic appearance be from a land line, not a cell phone and not on speaker phone.

**NOTICE**

You may request conclusions of fact and law on the following issues, if they are contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before trial or evidentiary hearing. If you make a written request before trial or evidentiary hearing, the Court will make conclusions of fact and law as part of the final decision.

If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pre-Trial Statement.

3:18 p.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.